REVIEW OF THE DRAFT EIS GUIDELINES FOR THE BHP DIAMOND MINE

PRESENTATION BY THE GOVERNMENT OF THE NORTHWEST TERRITORIES

TO THE BHP DIAMOND MINE ENVIRONMENTAL ASSESSMENT REVIEW PROCESS

APRIL 6, 1995

TABLE OF CONTENTS

INTRODUCTION

Good afternoon Madam Chairman, members of the Panel. I am making this presentation on behalf of the Government of the Northwest Territories. With me is Mr. John Donihee, Legal Counsel for the Department of Justice.

The purpose of our presentation this afternoon is to inform the Panel of our involvement in the environmental assessment and review process of the BHP Diamond Mine and to provide the Panel with some suggestions on how the Guidelines could be improved.

ROLE OF THE GNWT

The GNWT has a direct interest in the assessment and review of the proposed BHP diamond mine. We wish to ensure that the interests of the Government of the Northwest Territories and the residents of the Northwest Territories are represented throughout this process.

There are departments within the GNWT who have responsibility for wildlife management; environmental management, assessment and protection; mineral development; mine inspection; transportation infrastructure; economic development; employment and training needs; worker safety; and health and social services.

INVOLVEMENT OF THE GNWT IN THE REVIEW PROCESS

Our involvement will include submissions and presentations at this stage of the review process and at the public hearing stage.

The GNWT has had a representative at each of the scoping meetings to monitor the proceedings and to take note of community concerns. The concerns and issues raised by the communities will be reflected in our submissions in addition to government concerns.

At the conclusion of this stage of the review process we will submit, under separate cover, a detailed set of written comments on the Guidelines.

IMPORTANCE OF THE PROJECT

The exploration activity in the Slave Geological Province has generated a great deal of interest both inside and outside the Northwest Territories. The increased potential for economic benefits to the region has raised many expectations. It has also raised many concerns about the potential for socio-economic and environmental impacts.

The economy and culture of the NWT are tied to the environment. Many people depend on traditional activities such as hunting and trapping. The sustainable development of resources is essential to the long-term economic self-sufficiency and social well-being of territorial residents.

Exploration and development of mineral resources must occur in ways that provide lasting social and economic benefits to residents while maintaining a healthy and productive environment.

In the past, economic opportunities associated with the mining sector have often by-passed our northern communities. The potential for a mine in the Lac de Gras area has raised expectations and questions regarding the extent of economic opportunities that development would bring to the area.

The population of the Northwest Territories is very young and the aboriginal population is growing quickly. In 1994, there were 25,874 people employed in the NWT. The unemployment rate was 17%. The unemployment rate was 30% for aboriginal people and 6% for nonaboriginal people.

Some of the factors that contribute to this inequity are the underdevelopment of the wage economy in small communities where most aboriginal people live and a difference between available skills and skills required for the job. People are concerned that they are not qualified for the new employment opportunities development would bring to the region and want training opportunities, particularly for their young people.

As the Panel heard yesterday, BHP is forecasting 230 jobs during the exploration stage, 1000 jobs during the construction stage and 650 jobs during the development stage. This would represent a significant economic stimulus to the region.

SUMMARY COMMENTS ON THE DRAFT EIS GUIDELINES

The Draft EIS Guidelines were carefully reviewed by GNWT departments. We found the Guidelines to be very comprehensive and we would like to commend the Panel for their effort. The Guidelines included all of the important biophysical, biological and socio-economic elements. The only area that we determined to be missing from the Guidelines was the consideration of archeological sites. We would urge the Panel to require the proponent to address the issue of archeological site protection in the Environmental Impact Statement.

We are pleased that the Guidelines recognize that traditional knowledge can contribute to the assessment process. Traditional knowledge is a valid and essential source of information about the natural environment, the use of natural resources and the relationship of people to the land and to one another. Both traditional knowledge and scientific information will be required in the assessment process. The proponent should be encouraged to utilize community expertise as much as possible in conducting and managing traditional knowledge studies.

SPECIFIC COMMENTS ON THE DRAFT EIS GUIDELINES

I would now like to make some specific comments on the Draft EIS Guidelines. The quality of the proponent's Environmental Impact Statement and the effectiveness of the overall review process will to a large degree be determined by the quality of the Panel's EIS Guidelines. We found the Guidelines repetitive with some issues covered in two or more sections. The Guidelines should be improved to ensure that they are clear, logical and understandable. They must provide clear instructions to the proponent.

To provide a common understanding, the proponent should append a glossary to the EIS which includes technical terminology and acronyms. We would encourage the Panel to state what it wants BHP to do as specifically as possible rather than describing what BHP should achieve in broad, general terms.

The Panel has requested BHP to provide information on the land claims and regulatory regime. The BHP diamond mine project is subject to over-lapping land claims by different aboriginal organizations. Some of these claims have been settled, others are under negotiation, and others have yet to be initiated. The proponent should not be responsible for determining which organizations have interests in the area. It is government's responsibility to provide information on land claims and regulatory regimes to the Panel.

Government and aboriginal organizations will be responsible for ensuring a smooth transition into a new regulatory regime under settled land claims. The Panel should not expect the proponent to predict what the regulatory regime will be in the Western Arctic after implementation of land claim agreements.

The first portion of Section 9 of the Guidelines deals with impact assessment methodology. We believe that this section of the Guidelines is one of the most important and that it should be expanded before the final EIS Guidelines are released.

The GNWT was a participant in the recent environmental assessment and review of the Great Whale Project. The Panels involved in that review process produced an extensive set of Guidelines. I would like to refer the Panel to pages 7 to 9 of those Guidelines, under the heading "Data Acquisition Methodology and Documentation" which incorporates guidelines 130 to 137. These are the type of instructions we feel should be included in Section 9 of the Guidelines.

In summary, these guidelines state that the methodology of the impact assessment process should be scientific, transparent and reproduceable. Any intervenor should be able to retrace and understand the steps of the analysis. This means that any assumptions made in technical studies must be clearly identified and justified. Any criteria used to evaluate impacts must be specified and qualified and any weight assigned by the proponent to one impact criterion over another must also be explained.

As we know, experts working from the same data can arrive at different conclusions. In addition, there have been situations where all the data or studies have not been available to all parties. We urge the Panel to structure the Guidelines so that all intervenors can test the conclusions contained in the proponent's EIS.

We note that the Panel has established a Public File in Yellowknife. We suggest that all documentation relevant to the impact assessment process be filed by the proponent and other intervenors in this Public File. This includes all scientific literature and studies used by the proponent.

The Panel should only rely on information contained in the Public File. If proprietary information must be used in the EIS, then the Panel should develop a protocol to deal with this issue.

We suggest that the Panel urge government departments, especially those with specialist knowledge, to file their studies in the Public File. It is essential that government agencies advise the Panel and proponent of relevant available information once the final EIS Guidelines are released.

Our experience with Great Whale was that the physical location for the documents was remote and that there was no readily accessible listing of the materials on file. We would recommend that the Panel Office develop a computerized list of the information and documents in the Public File relevant to the impact assessment process, including a brief description of the contents of each document. This would allow any interested member of the public or intervenor to review the list and improve access to information.

Finally, the Guidelines could provide better direction with regard to cumulative impact assessment. Consideration of cumulative effects is important in assessing impacts at an ecosystem level. We would urge the Panel to include a requirement that the proponent outline its cumulative assessment methodology. This area of impact assessment is new and evolving rapidly. The methodology chosen should be justified in light of the theory and practice of cumulative impact assessment.

The GNWT does not feel it is BHP's role to assess all development impacts in the Slave Geological Province. However, the Draft EIS Guidelines seem to omit cumulative off-site impacts, for example effects on water quality and cumulative impacts of off-site activities such as transportation and socio-economic effects.

CONCLUSION

As I stated earlier, we believe that the Guidelines are generally satisfactory and we will be providing you with more detailed comments in our written submission. The GNWT will provide whatever technical assistance it can to communities and other intervenors in the hearings and will participate directly, assisting the Panel in all areas where we have responsibility and expertise.

If we look ahead to the next steps in the review process, we would like to suggest that the Panel focus on the procedural aspects of the technical hearings. The GNWT will prefile our evidence and advise the proponent of any concerns in advance to ensure that the hearings are fair and useful to the Panel in its deliberations. We suggest that some discussion of procedural matters in advance of the hearings would be useful.

Thank you for the opportunity to address the Panel. If you have questions, either I or Mr. Donihee will try to answer them.

APPENDIX

EXCERPT FROM GUIDELINES, ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED GREAT WHALE RIVER HYDROELECTRIC PROJECT

thoroughly understood before the impacts of a development project can be assessed. In the case of the proposed Great Whale project, the Proponent must be particularly attentive to the conceptual and symbolic systems and knowledge of the populations affected.

127. Considering this diversity of cultures, it is to be expected that the ecosystem components which are identified and given value may well vary from one culture to another, and, even if they are similar, that the reasons for which they are valued may be different. In the same way, since points of view concerning the proposed project and its impacts are based on different values and knowledge, it is quite likely that they will vary from one culture to another. The Proponent shall take this diversity into account both in its description of the environment and in its impact analysis, through the notion of valued ecosystem components.

CONSULTATIONS WITH LOCAL POPULATIONS

128. The reactions of populations to a proposed project, their ability to integrate it into their environment and their propensity to feel alienated by it depend in part on the degree to which they are involved in the decision-making. The Proponent shall therefore establish mechanisms to incorporate the knowledge and opinions of all communities that inhabit the region and plan to continue to do so. These mechanisms shall include consultations related to research that may be required to complete the EIS.

129. The Proponent shall describe the consultation procedures initiated since the announcement of the project, notably those implemented in the affected communities, and the manner in which these consultations have affected the Proponent's decisions with respect to the proposed project.

DATA ACQUISITION METHODOLOGY AND DOCUMENTATION

130. The Proponent shall specify and justify all sampling methods and statistical processes employed in both the biophysical and social milieu. The reliability and scope of the results, the possibility of reproducing the analyses and quality control of laboratory analyses shall be analyzed critically. All data based on environmental sampling necessarily involve some variability, which must be determined to assess the reliability and scope of the data. In the EIS, the Proponent shall, for all data obtained

from environmental sampling, provide a dispersion or variability coefficient (variance, standard deviation, confidence interval, etc.) and indicate the size of the sample used. Similarly, when using mathematical models, the Proponent shall indicate the prototype used, the accuracy, and the inherent limits of interpretation.

131. Temporal and spatial boundaries must be determined on the basis of the potential impacts on the particular biophysical or social phenomenon being addressed.

132. Various methods have been developed in the social sciences to gather the knowledge of resident populations. The Proponent shall explain and justify the methods used. Insofar as possible, interviews shall be recorded, transcribed and made accessible for consultation. Those recorded in Native languages shall be translated into French or English. Generally accepted rules of ethics in the social sciences, in particular those which aim to protect people's reputations and the identity of subjects interviewed, shall be respected. If written data concerning people's knowledge or opinions is used, the Proponent shall provide references and shall make the texts publicly available. The Proponent shall also explain the methods used to account for the knowledge, opinions or conceptual and symbolic systems derived from such interviews and texts.

133. Where essential data are missing and cannot be collected, the Proponent must advise the administrators and the review bodies, who reserve the right to initiate independent research should they deem additional studies necessary or to propose other measures. The Proponent shall evaluate the significance of the absence of data from the study area. The Proponent shall also refer to existing relevant literature carried out in similar conditions elsewhere and shall describe the limits of interpretation imposed by this type of data.

134. Various regional organizations have already conducted studies on the biophysical and social milieu. The Proponent shall describe any cooperative arrangements made with these organizations, with specialized research centres or with any other institution or person with recognized expertise in specific research areas pertinent to the study area. Furthermore, the Proponent shall consult the appropriate government agencies and shall provide a report on those consultations.

135. Wherever the Proponent makes use of qualitative criteria to compare various design and development options, to describe the environment, or to assess impacts, each of these criteria shall be defined, their relative importance stated, and the differences between the categories (e.g., desirable, acceptable, unacceptable) indicated. The Proponent shall justify the classification of each criterion.

136. The Proponent shall explain the methodology used to predict the impacts on the biophysical and social environments, and shall validate any model used for this purpose. All studies used in the prediction of impacts must be specified, a data base organized, the original authors identified and the studies made public. All statements based on public consultation shall be justified and the sources and methodology specified. The choice of methodologies and interpretation of results shall be justified in light of current theories, knowledge and standards. The Proponent shall review the theory and practice of cumulative impact assessment and shall justify the methodology proposed.

137. The Proponent shall support all analyses, interpretations of results and conclusions with an extensive review of the appropriate literature, providing all references required and indicating the public availability of all works consulted, when appropriate. Any contribution based on traditional knowledge used shall also be specified and sources identified. The Proponent shall also define all technical terms used in the EIS and include these in a glossary.

ORGANIZATION OF THE GUIDELINES

138. These guidelines require the Proponent to justify the proposed project (Chapter 2), to describe the biophysical and social environment (Chapter 3), to describe the proposed project and variants (Chapter 4), to predict the changes and impacts that would result from it (Chapter 5), to describe the mitigative measures that the Proponent proposes to undertake if the project is approved, along with any compensatory measures for residual impacts (Chapter 6), and to describe the management and monitoring of the project over time, including measures to enforce compliance with the terms that may be set out in the authorization (Chapter 7).